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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number 12732-160001
I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450. Date of Deposit Signature Typed or Printed Name of Person Signing Certificate	Application Number 10/622,504	Filed July 21, 2003
	First Named Inventor Satoshi Seo et al.	
	Art Unit 1774	Examiner Dawn Garrett

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record 37,640
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October 12, 2006
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 4 pages are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Satoshi Seo et al.	Art Unit	: 1774
Serial No.	: 10/622,504	Examiner	: Dawn Garrett
Filed	: July 21, 2003	Conf. No.	: 4688
Title	: MATERIAL FOR AN ELECTROLUMINESCENCE ELEMENT AND ELECTROLUMINESCENCE ELEMENT USING THE SAME		

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to United States Patent and Trademark Office OG Notices: 12 July 2005 - New Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. Review of these identified matters by a panel of examiners is requested because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

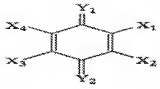
Claims 1-32 are pending, with claims 1-22, 27 and 30 being independent. Claims 1, 2, 4-13 and 15-22 have been withdrawn from consideration, leaving claims 3, 14 and 23-32, including independent claims 3, 14, 27 and 30, under consideration.

Applicant specifically asks the panel to review the issue highlighted below.

The rejection should be withdrawn because there would have been no motivation to combine the references as set forth in the rejection, and because the rejection fails to identify such motivation.

Claim 3, for example, is directed to an electroluminescence element that includes an anode over a substrate, a buffer layer over the anode, a hole transporting layer over the buffer layer, a light emitting layer over the hole transporting layer, and a cathode over the light emitting layer. Claim 3 further recites that the buffer layer includes a material for the electroluminescence element that includes a polymer compound containing a conjugate on at least one of a main chain and a side chain, and a compound represented by the following general formula [3]:

[General Formula 3]



...[3]

where at least one of X1 to X4 is a halogen, and each of Y1 to Y2 is a dicyanomethilene group or a cyanoimino group:

Independent claims 14, 27 and 30 recite electroluminescence elements having buffer layers including the same materials as those of claim 3.

The rejection asserts that Bernius describes the general structure of the electroluminescent layer, but "fails to teach the specific polyaniline dopant "TCNQ" recited in the claims." The rejection then asserts that Kono describes the use of this dopant and that it therefore would have been obvious to employ it because Kono "teaches polyaniline doped with TCNQ is an electrically conductive material as required by Bernius."

The rejection further acknowledges that Kono fails to teach a specific derivative of TCNQ comprising a halogen. The rejection then argues that Nakayama teaches that TCNQ and equivalent materials including TCNQ derivatives including halogen substitutes and DCNQI derivatives with halogen substituents as having similar electronic properties. The rejection then argues that it would have been obvious to substitute the materials of Nakayama for those of Kono "because the materials have similar properties and would be expected to behave similarly to TCNQ in a device."

Thus, the Examiner appears to be applying a standard by which the references can be combined unless the references specifically recite that they cannot be so combined, and has not applied the proper standard of combining references only when the references provide motivation to do so.

Stated another way, rather than showing the proper motivation, the rejection merely indicates that it would have been obvious to use the doped polyaniline of Kono because Kono teaches that the doped polyaniline is an electrically conductive material. Thus, the rejection, in essence, argues that the material of Kono "could" be substituted for the material of Bernius and that, for this reason, one of ordinary skill in the art "would" have made the substitution. However, it is well established that the mere suitability of an alternative is insufficient to provide the required motivation to combine. Rather, the rejection must establish that there would have been some affirmative motivation to do so. Such a motivation simply does not exist.

Kono is directed to a secondary electric cell, and does not describe or suggest that polyaniline doped with TCNQ may be used for an electroluminescence element, such as the organic light emitting diodes of Bernius, or for a buffer layer of the electroluminescence element. As such, Kono's mere use of polyaniline doped with TCNQ in a secondary electric cell would not have motivated one of ordinary skill in the art to modify the polyaniline used in the organic light emitting diodes of Bernius.

Moreover, Bernius and Kono take substantially different approaches, such that it would not necessarily be apparent that the material of Kono could even be substituted for that of Bernius, let alone that one or ordinary skill would have been motivated to make the substitution. In particular, Bernius shows that polyaniline is doped with a strong organic acid, such as poly(styrenesulfonic acid), which is a Bronsted-Lowry acid (i.e., a substance which donates a proton, also referred to as a proton donor). By contrast, the TCNQ taught by Kono is a Lewis acid (i.e., a substance which accepts an electron pair, also referred to as an electron acceptor).

Bernius discloses that a conductivity of polyaniline is increased by doping with the Bronsted-Lowry acid such as poly(styrenesulfonic) acid, which can donate a proton to polyaniline. Meanwhile, Kono discloses that a conductivity of polyaniline is increased by doping with the Lewis acid such as TCNQ, which can accept an electron pair from polyaniline. Thus, the conductivity of polyaniline is increased by quite different mechanisms between the dopant of Bernius and that of Kono. Accordingly, for this additional reason, there would have been no motivation to replace the strong organic acid taught by Bernius with the TCNQ taught by Kono (or that taught by Nakayama).

In the advisory action, the Examiner addresses arguments similar to those presented above by merely asserting that they are not persuasive in the absence of data or evidence supporting the arguments. Applicant respectfully submits that no such evidence is required, as the burden is not on the applicant to establish that the references cannot be combined. Rather, the burden is on the Examiner to provide a motivation for doing so.

Applicant submits that all claims are in condition for allowance.

Respectfully submitted,

Date: 10/12/06

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